IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.169 OF 2007**
**IN**
**CRIMINAL WRIT PETITION NO. 2323 OF 2005**

Vijay Hemndas Java ..Applicant
V/s
Union of India and others ..Respondents.

Mr. Yogesh Rohira, Advocate for the applicant.
Mr. H.V. Mehta, APP for respondent-Union of India.
Mr. Y.M. Nakhawa, A.P.P.for the State.

**CORAM : R.M. SAVANT, J.**

**DATE : 18TH MAY, 2007.**
**(VACATION COURT)**

P.C.

. This is an application filed by the original applicant for the following reliefs:-

(a) Pending the hearing and final disposal of Criminal Writ Petition No.2323 of 2005, the Petitioner may also be permitted to travel abroad for a period of six months on such terms and conditions as this Hon'ble Court may deem fit to impose; and

(b) Consequently the Learned Additional Chief Metropolitan Magistrate 3rd Court, Esplanade, Mumbai, be ordered and directed to return the

Passport of the Petitioner;

(c) For such other and further reliefs as this Hon'ble Court may deem fit to grant in the facts and circumstances of the case.

2. It is the case of the applicant that on four earlier occasions he has been allowed to travel abroad subject to the conditions imposed by the trial Court, which are reproduced in the above application. The applicant had moved an application before the concerned Additional Chief Metropolitan Magistrate, who was pleased to reject it on the ground that this Court had stayed the proceedings in case No. 108/RA/2003 vide order passed in Writ Petition No. 2323/2005. The said writ petition has been filed by the above applicant for quashing the said proceeding on the ground that the Department Appeal filed by the applicant has been allowed on 9/9/2005 and the applicant has been exonerated. I have perused the order passed by the Additional Chief Metropolitan Magistrate. It is true that this court had stayed further proceedings in Case No 108/RA/2003. The stay would be applicable to the proceeding and would not come in the way of the

applicant making the instant application pending the said proceedings. It is also pertinent to note that the said order came to be passed by this Court on 1/12/2005. The applicant has been allowed to travel abroad on an earlier occasion by the concerned Additional Chief Metropolitan Magistrate by order dated 15/9/2006. In my view therefore, there would be no impediment to consider the above application of the applicant and the learned Additional Chief Metropolitan Magistrate, in my view proceeded on a wrong premise. It is also to be noted that on the earlier four occasions, when the applicant was permitted he has not committed any breach of the conditions imposed. The application would therefore, have to be allowed and the applicant granted permission to travel abroad i.e. to Dubai and U.S.A., which permission would last for a period of three months upto 18th August, 2007 on the following terms and conditions-

(i) The permission to the applicant to travel abroad to Dubai and U.S.A. is for a period of three months upto 18th August, 2007.

(ii) The applicant to deposit additional security of Rs. 1,50,000/-, which amount according to the learned

Counsel for the applicant is already lying deposited with the Lower Court in view of the earlier permissions granted to him. The applicant to substantiate the same before the department.

(iii) The applicant should inform the department the person who will receive the Writ from this Court in the proceeding concerning the order passed by the Tribunal exonerating the appellant, being Appeal No. 38/2006 filed by the Department, along with consent letter of the said person.

(iv) The applicant to furnish copies of Air Tickets to the department.

(v) The applicant also to furnish two references along with their consent who can be contacted in the absence of the applicant.

(vi) After copies of Air Tickets and references are submitted to the department, the department to return the passport to the applicant.

(vii) The applicant will not be granted any extension of

the permission granted herein above from abroad.

(viii) The applicant to surrender his passport within three days after he returns, to the department.

(ix) The above permission would be revoked, if there is breach of any of the above terms and conditions.

. The application is accordingly disposed off.

. All concerned parties to act on the copy of this order duly authenticated.

**(R.M.SAVANT, J.)**